

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 5875 of 2004

Between:

1 Mahaveer Prasad Mukesh Kumar,
a partnership firm, having its office at Shop No. 88,
Sri Krupa Market, Mahboob Mansion, Malakpet, Hyderabad,
represented by its Managing Partner Sri M. Ramachandra
Reddy, S/o Sri M. Subba Reddy, aged about 44 years,
Occupation: Business, R/o Hyderabad.

2 M/s. Anuradha Township and Properties Private Limited,
having its registered office at 202, Diamond Towers, S.D.
Road, Secunderabad, represented by its Managing
Director, Sri M. Ramachandra Reddy S/o M. Subba Reddy,
aged about 44 years, Occupation: Business, Hyderabad.

..... PETITIONERS

AND

1. The Special Court under the Land Grabbing (Prohibition)
Act, 1982, Andhra Pradesh at Hyderabad.

- 2 Mohd. Rasheed Ahmeed Alwi, S/o Late Sri Mohd. Nissar
Ahmed Alwi, R/o H. No. 10-6-138, Ahmed Nagar,
Hyderabad-28.
- 3 Mohd. Kamaluddin Quadri, S/o Mohd. Ghulam Moinuddin,
R/o H. No. 13-6-437/10/4, Langar House, Hyderabad.
- 4 Mohd. Moiuddin Ahmeed, S/o Late M.A. Haseeb,
R/o H. No. 12-2-790/124, Ayodya Nagar, Mehdipatnam,
Hyderabad.
- 5 Mohd. Bahadur Khan, S/o Late Mohd. Suleman Khan,
R/o H.No.12-2-87/156/A, Zibabagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Certiorari calling for the records in T.O.P.NO.8 of 2002 on the file of the First respondent Special Court and quash the impugned order dt. 10/02/2003 in the said T.O.P.No.8 of 2003.

For the Petitioners: MR. M.V.DURGA PRASAD, Advocate.

For Respondent No.1: Government Pleader for Land Grabbing.

For Respondent Nos. 2 to 5: Mr. K. Sarvabhuma Rao, Advocate.

The Court made the following Order: (per Sri B. Sudershan Reddy, J)

This writ petition is taken up for final disposal at the request of both the learned counsel for the writ petitioners as well as the learned counsel for the respondents even at the interlocutory stage.

The writ petition is directed against the Order dated 10.12.2003 made in T.O.P No. 8 of 2002 on the file of the Special Court under the Andhra Pradesh Land Grabbing Prohibition Act, Hyderabad. The Special Court allowed T.O.P No. 8 of 2002 filed by respondents 2 to 5 herein and accordingly ordered withdrawal of O.S No. 819 of 2002 on the file of the learned Principal Junior Civil Judge (West and South), Ranga Reddy District and transferred the same to the file of the Special Court to be tried along with L.G.C No. 64 of 20002.

Respondents 2 to 5 herein filed L.G.C No. 64 of 2002 on the file of the Special Court. They are the defendants in O.S No. 819 of 2002 filed by the writ petitioners herein for an injunction simplicitor. L.G.C No. 64 of 2002 is filed for recovery of possession on the ground that the applicants in the L.G.C are the owners of the schedule property.

The Special Court having found that the subject matter in L.G.C No. 64 of 2002 pending on its file and the subject matter that arises for consideration in O.S No. 819 of 2002 on the file of the Principal Junior Civil Judge to be the same, allowed the application filed by the respondents herein for withdrawing the suit. Be it noted, that the suit filed by the petitioners herein in O.S No. 819 of 2002 on the file of the Principal Junior Civil Judge (West and South), Ranga Reddy District is for a perpetual injunction restraining respondents 2 to 5 herein from interfering with the possession of the schedule property. The L.G.C filed by respondents 2 to 5 herein is based upon an allegation of grabbing of land by the writ petitioners.

This Court in **Shalivahana Builders (P) Ltd. v. S.G. Co-op. Housing Society** in clear and categorical terms held that the Special Court or the Special Tribunal constituted under the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 have no jurisdiction to grant an injunction against an attempt to dispossess. It is further held that taking possession of the land without any lawful entitlement thereto is a *sine qua non* to hold a person to be a land grabber. This Court took the view that the Special Court has no jurisdiction to entertain any proceeding which is in the nature of simple suit for perpetual injunction. The view taken by this Court in Shalivahana Builders (1 supra) received its approval by a Larger Bench of this Court in W.P No. 15260 of 2003 and Batch dated 7.10.2004. In the light of the law declared by this Court, it is held that the Special Court has no jurisdiction to try and dispose of simple suits for injunction.

In the circumstances, the order withdrawing O.S No. 819 of 2002 on the file of the learned Principal Junior Civil Judge (West and South), Ranga Reddy District suffers from errors apparent on the face of the record requiring to be corrected in exercise of our Certiorari jurisdiction. The impugned order is accordingly quashed. The Writ Petition is allowed. There shall be no order as to costs.

(B. Sudershan Reddy, J)

29..10..2004

(K.C. Bhanu, J)

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Rule nisi has been made absolute. Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the twenty ninth day of October, Two Thousand and Four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Registrar, Special Court under the Land Grabbing
(Prohibition) Act, 1982, Andhra Pradesh at Hyderabad.

2 Two CCs to the Government Pleader for Land Grabbing,
High Court of Andhra Pradesh, Hyderabad (OUT).

3 Two CD copies.